Supreme Court, U. S.
FILED
JUL 21 1980
MICHAEL RODAK, JR., CLERK

No. 80-92

In the Supreme Court

OF THE

United States

OCTOBER TERM, 1980

ARTIN ARTARIAN, *Petitioner,*

vs.

KAREN M. ARTAR, *Respondent*

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF SPECIAL APPEALS OF MARYLAND

ARTIN ARTARIAN
Petitioner, Pro Se
P.O. Box 602
Olney, Maryland 20832
Phone (301) 948-7010

QUESTIONS PRESENTED

1. Whether a litigant's admission or rejection has any bearing on the *validity of foreign countries judgments* in the U.S.A. regardless of the fact that, *operation* of such a decree would do wrong to U.S. Citizens and cause injury to their Constitutional Rights, Civil Rights, Human Rights, Public Policy and Laws of the State, morality and Rights to Property, *without due process of law* and in view of U.S. Cases cited and specificially when, *Ex-parte Divorces,* are well known to be unconstitutional; *Epstein v. Epstein* 193 Md. 164, 170 *Sherrer v. Sherrer* 334 U.S. 343, 349.

2. Whether the Maryland State Courts were entitled to *deny,* R(29), Petitioner's *Cross and Counter-Claims* R(12), against *foreign Sovereign,* where Denmark was the *Initial Suitor;*

Et Ve Balik Kurumu v. *B.N.S. Int. Sales Corp.,*
204 N.Y.S. 2d 971, 980, 981

and

Denmark waived immunity:

a. By not alleging Sovereign Immunity directly; Subpoena R(15); or

b. By the silence of the U.S. State Department.

Victory Transport Inc. v. *Commissaria Gen.,*
336 F.2d 354, 357, 360

3. Whether Petitioner's Case should have been *removed* on Jurisdictional Grounds as per U.S. Const. Art. III, sect. 2, in addition to controversies exceeding the Jurisdictional amount and diversity of citizenship under 28 U.S.C.A. §1331, 1332, where Maryland *Courts of Equity* had Jurisdiction over Petitioner's U.S. child removed from the Maryland State to foreign Country, pursuant to Art. 16-§66 of Annotated Code of Maryland, *when the Judgment of the foreign country's court carried the custody of Petitioner's child, removed from the State, but prayed relief in equitable property?*

TABLE OF CONTENTS

Page

Questions Presented i
Opinion Below 1
Jurisdiction 1
Statement of the Case 2

Respondent's Unclean Hands 7
The Merits of Petitioner's Case Concisely Stated 8
Jurisdiction of Maryland State Courts of Equity Over Child Removed From the State, to Foreign Country 9
Lower and Trial Court Proceedings 11
Service of Pleadings, Proof of Service 12
Respondent's Contempt of Court 12
Evidence Submitted 13

Reasons for Granting the Writ 13
Conclusion 14
Appendices:
A. Opinion, Court of Special Appeals of Maryland A-1
B. Opinion, Court of Appeals of Maryland A-6
C. Summary Judgment, Maryland State Circuit Court ... A-7
D. Witness Affidavit A-8

Table of Authorities Cited

Cases **Page**

Wagenberg v. Wagenberg 214 Md. 154, 215 A2d 812 4
Bombala v. Bombala 33 N.E. 2d 845 2
Epstein v. Epstein 193 Md. 164, 170 4
Hansen v. Hansen 8 N.Y.S. 2d 655, 656 3
Hilton v. Guyot 16 S.Ct. 139, 159 U.S. 113 3
Martens v. Martens 20 N.Y.S. 2d 206 3
Sherrer v. Sherrer 334 U.S. 343, 349 3
Turman v. Turman 99 S.W. 2d 948 7
Weil v. Weil 26 N.Y.S. 2d 467 3

Civil Rights:

Application of Gault v. Gault 387 U.S. 1, 19, 20, 21 9
Griswold v. Connecticut 381 U.S. 479, 496, (1965) 9
Marshall v. Sawyer 301 F.2 639 (9th Cir. (1969) 9
Meyer v. Nebraska Supra 262 U.S. 390, 399 (1923) 9
Morrison v. Jones 6 FLR 2022 (9th Cir. (1979) 9
Screws v. United States 325 U.S. 91, 138, 159 9
Skinner v. Oklahoma Supra 316 U.S. 535, 541 (1942) 9
Stanley v. Illinois 405 U.S. 645, 651, 652 (1972) 9

****Amendments**

U.S. Constitution, Fifth Amendment, Ninth Amendment .. 1
U.S. Constitution, Fourteenth Amendment 1

****Treaties**

Private International Law, The Hague Convention
22 U.S.C.A. §269 g, June 1, 1970 3

(**) For additional Cases Cited, please see, petitioner's Brief filed in the Court of Special Appeals of Maryland 3 copies of which are submitted to the clerk of this Court, for review

Table of Authorities Cited Cases Continued

Page

Service Convention 3
Vienna Convention on Consular Relations 3

Codes

28 U.S.C.A. § 1738 1
42 U.S.C.A. § 1981 and 1983 1

****State Laws**

Annotated Code of Maryland Art. 16, Sect. 3-6A Family Home 8
Annotated code of Maryland Art. 16 § 66(1)(2)(3) 10
Jurisdiction of courts of Equity on Child Custody 9
Maryland rule 306, 625, Vol. 9B 11

U.S. Constitution

U.S. Const. Art. IV, Cl. 1, Full Faith and Credit 1
U.S. Const. Art. VI, Cl. 2 - Treaties 1
U.S. Const. Art. III, Sect. 2 1

Sovereign Immunity:

Et Ve Balik Kurumu v. *B.N.S. Int. Sales Corp. (Turkish Govt.)* 204 N.Y.S. 2d 971, 980, 981 (1960) i

Victory Transport, Inc. v. Comisaria General 336 F.2d 354, (History 357) 355, 360(1964) i

OPINION BELOW

The Court of SPECIAL APPEALS OF MARYLAND rendered Decision on March 26, 1980, copy of which is attached to this Petition as *Appendix "A"*. The Decision was appealed to THE COURT OF APPEALS OF MARYLAND and was denied on April 21, 1980. Copy of which is attached as *Appendix "B"*. Summary Judgment entered by the CIRCUIT COURT OF MONTGOMERY COUNTY, MD. dated July 18, 1979 is attached as *Appendix "C"*.

Sworn AFFIDAVIT of Witness, Attorney Mr. Thomas L. Beight of Maryland, relating to the UNCLEAN HANDS of Respondent subject is appended to this petition as *Appendix D.*

Petitioner prays that, this Hon. Court will review the judgments above in conjunction with AFFIDAVIT Appendix D invoking the following Jurisdictional Grounds of the Court.

JURISDICTION

The statutory provisions conferring Jurisdiction of this Honorable Court are:

42 U.S.C. § 1981, and 1983; 28 U.S.C. § 1738

28 U.S.C. § 1257(3), 2241, 2242 and 2403

The other grounds upon which jurisdiction of this court is invoked, involve violations of constituitional amendments and articles namely, the First, Fifth, Ninth, Fourteenth Amendments; Article III, Sect. 2, Article IV, Cl. 1, full faith and credit; Article VI, Cl. 2 — treaties — Supreme Law of Land.

STATEMENT OF THE CASE

1. When Petitioner's ANSWER to Respondent's Bill of Complaint, filed on Grounds of a foreign Danish Divorce Decree, carrying the Custody of Petitioner's child, removed from the State of Maryland, impeached the Foreign Decree and introduced to the State Circuit Court a foreign Turkish Divorce Decree, having filing Priority and International Jurisdiction of the Case, assumed by Petitioner, The Circuit Court of Montgomery County stood between two foreign Judgments, over same Cause and Parties.

As a General Rule and as decided in the Case of *Bombala v. Bombala,* 33 N.E. 2d 845 —

> "A Judgment of a Foreign Court, which does not have Jurisdiction of the subject matter is void, notwithstanding Consent of Parties to Court's Exercise of Jurisdiction.-"

Pursuant to 28 U.S.C.A. § 1738 and Art. IV, Cl. 1, FULL FAITH AND CREDIT Clause of the U.S. Constitution, Judgments of Foreign Countries Courts are NOT RECOGNIZED UPON COMITY, IN PRESENCE OF INTERNATIONAL TREATIES, THAT ARE SUPREME LAW OF LAND, pursuant to U.S.C.A. CONST Art. 6, Cl. 2.

During the *only Pretrial Hearing* held on pending MOTIONS the Trial Judge, acknowledged the above Constitutional Provisions and instructed the Respondent's Attorney, on March 8, 1979 as follows:

**T(15), LINE 17 and B(32):

THE COURT: Well, somewhere along the line You are

(**) Designations R (··) used in this Petition denote the State Circuit Court Records, E Exhibits, B (··) Brief Submitted to the Clerk and T (··), Record of Transcript made during PRETRIAL HEARING ON PENDING MOTIONS, R)1)—R(12), Dated March 8, 1979, *the only hearing held in the Circuit Court.*

going to have to address the issue of comity as between foreign Powers and Jurisdiction, proper Procedures under International Treaties or Conventions to acquire Jurisdiction or fall back to other decree, the Turkish decree.

The lower and Trial Court both *denied to follow* the above self-imposed Jurisdictional Powers under International Treaties, by setting off such Treaties enumerated and Questions raised by petitioner through his several *motions* filed in the Trial Court as well as in his Brief filed in the lower Court, *concerning 3 international treaties.*

In his Brief, on pages 14 through 30 Petitioner IMPEACHED THE FOREIGN DANISH DECREE:

A. IN ABSENCE OF TREATIES
BY CITATION OF CASES : *Hilton v. Guyot* 16S Ct 139 Weil v. Weil - 26 N.Y.S. 2d 467, *Hansen v. Hansen* - 255 App. Div. 1016, 8 N.Y.S. 2d 655, *Martens v. Martens* - 20 N.Y.S. 2d 206;31 N.E. 2d 206.

B . UNDER PROVISIONS OF TREATIES AND CONVENTIONS
BY CITATION OF JURISDICTIONAL PROVISIONS OF THE DANISH PRIVATE INTERNATIONAL LAW, B (21), NORDIC CONVENTION B(24), PAST DANISH CASE/LAWS B(27), HUMAN RIGHTS CONVENTION B(29), SERVICE CONVENTION B(30), AND VIENNA CONVENTION B(35).

The lower Court's contention was that, Petitioner did not attack the Turkish Decree and admission of which was enough to enter a judgment and no further evidence was necessary.

The significant question here is whether a litigant's admission or rejection has any bearing on the *validity* ***of foreign countries judgments* in the U.S.A. regardless of the fact that, *operation* of such a decree would do wrong to U.S. Citizen and cause injury to their Constitutional Rights, Civil Rights, Human Rights, Public Policy and Laws of the State, morality and Rights to Property, *without due process of law* and in view of U.S. Cases cited specifically when, *Ex-parte Divorces,* that were obtained in Mass. Court, In Turkish and Danish Courts, are well known to be unconstitutional; *Epstein v. Epstein* 193 Md. 164, 170, *Sherrer v. Sherrer* 334 U.S. 343, 349.

2. The lower Court Judgment (Appendix A) was in error several times, when it stated,

> "Appellee filed a Motion for *Summary Judgment* to which Appellant filed no written response. At the *Hearing on the Motion* appellant appearing *pro se,* argued his opposition to the Motion."

A . THE APPARENT TRUTH IS THAT:

(1) NO SUCH A HEARING FOR THE MOTION ON SUMMARY JUDGMENT TOOK PLACE.

(2) A TRANSCRIPT FOR A HEARING ON THE MOTION FOR SUMMARY JUDGMENT DOES *NOT* EXIST AND THE TRIAL COURT RECORDS, DOCKET ENTRIES SHALL REVEAL THE TRUTH.

(**)*Wagenberg v. Wagenberg* 241 Md. 154, 215 A2d 812

2. Judgment § 818(1)

Jurisdiction of foreign court rendering judgment upon which suit is brought in another state is open to judicial inquiry. U.S.C.A. Const. art. 4, § 1;28 U.S.C.A. § 1738.

B . APPARENT REASON FOR LOWER COURT'S ERROR

(1) Was derived from typewritten form, *Appendix C,* for order on Summary Judgment, Record No. 47, dated July 18, 1979 prepared by respondent's attorney in such a manner, that would give the reader the impression, that an oral hearing on the Summary Judgment was held.

(2) Four different Trial Judges on and off the Case and handling *written* proceedings, did not realize the truth.

C . THE GROUNDS FOR SUMMARY JUDGMENT, ENTERED WAS NOT A HEARING ON MOTION FOR SUMMARY JUDGMENT BUT:

(1) *THE CONTENT* OF RESPONDENT'S MOTION FOR SUMMARY, JUDGMENT, R(40) DATED MAY 9, 1979, THAT WITH THE PRODUCTION OF A FOREIGN DANISH HIGH COURT DOCUMENT, EXHIBIT NO. 530, ALLEGED the Danish Decree *final* stating that, *NO* file on Petitioner's Danish Appeal existed.

(2) In fact the court *advised* the Respondent for Production of such a document through local *Danish Consulate,* demanding translation of it, T(16) Line 16 thru 25, *in apparent prejudice to Petitioner.*

D . COURT'S ABOVE ADVICE VIOLATED ITS OWN DOCTRINE FOR EXAMINATION OF JURISDICTION, PROPER PROCEDURES UNDER INTERNATIONAL TREATIES, converting the entire issue into production of a Foreign Court Judgment, in apparent violation of 28 U.S.C.A. § 1738, and U.S. Const. Art. IV, Cl. 1 Art. VI, Cl. 2 - Treaties - Supreme law of land.

E . CONTRARY TO LOWER COURT'S STATEMENT PETITIONER FILED A WRITTEN RESPONSE TO RESPONDENT'S MOTION FOR SUMMARY JUDGMENT R-(41).

(1) IN FACT WITH HIS COUNTER MOTION, OPPOSING TO SUMMARY JUDGMENT with, R(41) dated May 15, 1979 Petitioner showed the Trial Court that, the Danish judicial document E 530, should not be given Credit:

(a) The Danish Judgment was not final, since Petitioner filed an Appeal in the Danish High Court, Appeal was Registered under V.L. 1745/1978, E 420 A (Danish Original E 420).

(b) Following Danish High Court's instruction Petitioner filed a second Appeal, by permission of the Turkish Embassy, Exhibit No. 437, pursuant to Art. 16 of Service Convention. Both lower Courts set off the evidence and entered Judgment against Petitioner without *trial, WITHOUT a hearing on motion for Summary Judgment* as erroneously stated by both Courts, in violation of Amend. 14, Amend. 5, of the U.S. Constitution, resulting Civil rights violations, rights to property.

F . ACKNOWLEDGEMENT OF ATTORNEY MISCONDUCT

Respondent's attorney well aware of his misconduct during Court proceedings, on Petitioner's Appeal from Trial Court decision to the lower Court, on Oct. 19, 1979 filed a *MOTION TO DISMISS;* a copy of which he failed to serve Petitioner and wherein he stated:

"NO APPEAL LIES FROM AN ORDER APPOINTING TRUSTEE EVEN THOUGH A COURT GIVES AN *ERRONEOUS REASON* FOR ITS ACTION."

RESPONDENT'S "UNCLEAN HANDS"

The Lower Court erred in its Judgment and the Trial Court failed to respond to Petitioner's allegations regarding Respondent subject's *UNCLEAN HANDS.*

(1) Witness, Attorney Thomas L. Beight, Esq., on March 8, 1979 during the hearing on pending pretrial motions with personal appearance sworn in presence of the Trial Judge stated that the AFFIDAVIT, marked as E 148, Appendix D, showing UNCLEAN HANDS of Respondent subject, was written by him, a copy of which he handed to Respondent's attorney.

(2) On March 20, 1979, R(24), Petitioner submitted to the Trial court, the said witness AFFIDAVIT and a copy of the libel suit filed against Respondent, in the State of Mass. for her *UNCLEAN HANDS,* EXHIBIT "C" and on grounds of Respondent's cruelties against Petitioner on several occasions.

(3) Answering to Petitioner's AFFIDAVIT, Respondent on March 27, 1979, R(26) filed a motion Ne Recipiatur.

(4) The Trial Court failed to rule on Respondent's motion, that means court's acknowledgment of the Respondent's UNCLEAN HANDS.

(5) As a General Rule, and as cited in the Case of *Turman v Turman* - 99 S.W. 2d 947 the Judgments of Foreign Countries Courts are not recognized in the United States, if validity of same would cause injury to U.S. Citizens. In Turman's Case the Texas Court stated:

19. Divorce - § 332

> "Texas court was not required to recognize or give validity to husband's Mexican divorce judgment carrying with it the custody of minor children, where husband had fled Texas for Mexico with minor children and nearly all movable community property."

Further, as a General Rule, the Merits of the Case are concisely described and nothing has been hidden no matter how damaging facts have to be.

THE MERITS OF PETITIONER'S CASE STATED IN CONCISE WORDS ARE DESCRIBED AS BELOW:

(a) Respondent, Wife in Aug. 1973 *fled* the State of *Maryland* for Denmark, *with minor children.*

(b) Respondent subject took with her nearly all valuable, movable, equitable property.

(c) In 1973, she acquired in the State of Mass. a new residential and second property, for the purpose of bona fide domicile, AFFIDAVIT E 148, but still fled to Denmark, taking along, undeserved half of Petitioner's Funds, through sale of Mass. home sold under *duress* and heavy loss, despite Respondent never having lived in said property.

(d) In 1977, Denmark put Petitioner in jail, for kidnapping his minor U.S. child, kidnapped from Maryland.

(e) In April 1980, all Maryland State Courts put Petitioner's last residential home up for sale by *auction,* selling it for half its worth and putting petitioner and minor child Tina in his Custody on the street, in violation of civil rights, human rights and in violation of Art. 16 Sect. 3-6A-06 of Annotated Code of Maryland that states:

> **Sec. 3-6-A-06. Family home.**
>
> (*a*) The authority conferred by this section shall be exercised to permit the *children of the family* to continue to live in the environment and community which is familiar to them and to permit the continued occupancy of the family home and possession ...

(f) On April 29, 1980, address unknown Phillip Rubin Threatened Petitioner in writing to evict him from his home unless Petitioner followed his instructions. Petitioner's Mortgage Bank verified the threat, E 711, 712.

JURISDICTION OF MARYLAND STATE COURTS OF EQUITY OVER CHILD, REMOVED FROM THE STATE TO FOREIGN COUNTRY

(1) The lower Court erred in its judgment by refusing to exercise Jurisdiction over petitioner's U.S. child removed from the State with statement below: *Appendix A,* last page)

".. NOR WAS THE CHILD A RESIDENT OF OR DOMICILED IN THE COUNTY ..."

(2) The trial Court was also in error by denying to exercise Jurisdiction over the U.S. child removed from the State to Denmark, when it stated:

TRANSCRIPT R(54) - T(6), lines 16-18

THE COURT: -the other courts, you can take care of the custody matters in the other courts, but this suit doesn't involve custody.

JUDGMENTS ENTERED BY THE COURT BELOW AND THE TRIAL COURT VIOLATED ART. 16 § 66 of Annotated Code of Maryland, Petitioner's and older child Tina's Civil Rights, Familial Rights, under title 42 U.S.C.A. § 1981, 1983, *Basic Civil Rights of Man and Amendments Ninth and Fourteenth, as decided by this Hon. Court, in the following Civil Rights Cases:*

***

Skinner v. Oklahmoa 316 U.S. 535, 541 (1942)
Meyer v. Nebraska supra 262 U.S. 390, 399
Griswold V. Connecticut 381 U.S. 479, 496 (1965)
Stanley v. Illinois supra 405 U.S. 645, 651, 652 (1972)
Marshall v. Sawyer 301 F. 2d 639 (1969)
Morrison v. Jones 6 FLR 202 (1979)
Screws v. United States 325 U.S. 91, 138, 159
Application of Gault v. Gault 387 U.S. 1, 19, 20, 21.

***

Jurisdiction of Maryland State Courts of Equity over children removed from the State, is defined below:

(f) In all cases where one party to a marriage, existing or pre-existing, removes or has removed a child or children of the marriage from this State, the *courts of equity* of this State shall exercise jurisdiction to determine custody or visitation rights of the child or children so removed, if:

(1) *Maryland* was the *matrimonial domicile* of the parties or the domicile where the marriage contract was last performed and

(2) Such court shall have obtained personal jurisdiction of the party so removing the child or children: and

(3) One of the parties to said marriage shall have been at the time of said removal, a resident of the State of Maryland and shall continue to reside *therein.*

Pursuant to above Art. 16 § 66, subsection (f)(1)(2)(3) and on following grounds, the State Courts of Maryland *failed* to exercise Jurisdiction over Petitioner's child removed from the State:

In this Case at Bar

a. Maryland was the matrimonial domicile of the parties

b. The State Courts of Maryland obtained personal Jurisdiction over Respondent, as *Initial Suitor* and the party removing the child from the State.

c. Respondent as party to said marriage was, at the time of said removal, a resident of the State of Maryland, and Petitioner as a party, continues to reside in the State of Maryland.

Therefore Petitioner is entitled to pray this Hon Court take up the matter of child custody on Jurisdictional grounds and under provisions of Civil Rights Act and in addition to the true facts that, Petitioner *obtained same child's custody;* BY ORDER OF

(1) The State Courts of Mass. Exhibit C, in files, that enjoys FULL FAITH AND CREDIT under U.S. CONST. Art. IV, Cl. 1, and Federal Statute 28 U.S.C.A. § 1738, UNDER THE LAWS OF THE UNITED STATES.

(2) The Courts of Sovereign Turkey, having International Jurisdiction of the Case, under the rules of the Private Int. Law, Service Convention, having filing priority and date of final Judgments entered on March 10, 1977, Exhibits 281, 189, 236 submitted in Vol. 3 and in clerk's custody.

Petitioner's children have Dual Nationality, U.S.A. and Turkish valid under 8 U.S.C.A. § 1503 as cited under:

Peduzzi v. Brownell D.C. 113 F. Suppl. 419;
Acheson v. Naeneza 202 F.2d 453

Evidence to show respondent's removal of U.S. child from the State of Maryland and Montgomery County.

(1) AFFIDAVIT of Thomas L. Beight, Esq. *Appendix D*

(2) A fifty foot, 8mm, colored family movie film, in clerk's custody, showing family home during construction, both children at play on playground.

LOWER AND TRIAL COURT PROCEEDINGS

SUMMARY JUDGMENT entered by the Trial Court invokes rule 625 listed under Annotated Code of Maryland, Vol.9B, that defines Revisory Power of the Court in case of MISTAKE, FRAUD OR IRREGULARITY: Summary Judgment (*Appendix C)* is obtained without DUE PROCESS and without a HEARING: Trial Court Docket entries will verify the same.

SERVICE OF PLEADINGS, PROOF OF SERVICE

Under rule 306 of same Maryland Code a typewritten proof of service under a pleading, is an accepted procedure as a *Certificate of Service.*

Such methods of service and without a postal receipt of service is UNCONSTITUTIONAL and caused severe injury to petitioner, acting PRO SE.

On Nov. 6, 1979 Petitioner filed in lower court an Affidavit for Lack of Service, in which he noted the fact that Respondent's attorney twice failed to serve copies of TWO important MOTIONS, where he was unable to take any action for his defense.

RESPONDENT'S CONTEMPT OF COURT, FALSE ADDRESS ON BILL OF COMPLAINT: RECEIPT AND RETURN OF SUBPOENA BY IMPROPER PERSON

During trial court proceedings and in his *answer* to Bill of complaint, R(5) p. 3 and R(8) p.1, Petitioner showed the trial court and during oral argument in lower court he stated that, Respondent's Bill of Complaint carried an untrue and false address, that such an address confined Petitioner to jail term in Denmark resulting in his criminal prosecution and deportation, E 429.

Trial Court subpoena R(17) served upon Respondent subject, in foreign jurisdiction, by registered mail with return receipt, was returned to Trial Court files R(19) *smudged,* and was signed by *improper person.*

Under provisions of the extradition treaty ratified between Denmark and U.S.A. on July 18, 1974, 25 U.S.T. 1293: TIAS 7864(1974) and pursuant to Art. 3 (7)(12)(18)(23), the treaty prohibits:

Obtaining of property by defrauding any Governmental body, or any person by deceit, by use of mails, false statements made before a court, incl. under UNITED STATES LAW PERJURY AND SUBORNATION OF INJURY WHICH FALL:

Within Jurisdiction of Federal Statute under 18 U.S.C.A. § 1341 and 18 U.S.C.A. § 371.

EVIDENCE SUBMITTED

PETITIONER SUBMITS A FIFTY FOOT 8mm, colored MOVIE FILM, TO PROVE THAT, CONTRARY TO THE ASSUMPTION OF THE COURT BELOW, PETITIONER'S U.S. CHILD SYLVA WAS A RESIDENT OF MARYLAND, AND LIVED IN THE SAME HOME SUBJECT TO THIS CASE OF EQUITABLE PROPERTY. RESPONDENT REMOVED THE CHILD AND FLED FOR DENMARK.

REASONS FOR GRANTING THE WRIT

Petitioner being an innocent party, who devoted his life for family and children was severely injured through the operation of a foreign Country's divorce decree, having NO jurisdiction over cause and parties NO constitutional *faith and credit,* that resulted in loss of homes in the State of Mass. and the family home in the State of Maryland, in violation of Laws of Maryland, further loss of his U.S. child removed from the State, the courts of which sitting as courts of Equity denied to

exercise jurisdiction over the child removed from State and County, in violation of Laws of Maryland, despite UNCLEAN HANDS of foreign subject, proven with Trial Court records and personal witness appearance.

Operation of foreign Danish decree violated further Constitutional provisions and Federal Statues, evidenced with International Treaties in force, between Governments of the United States, Denmark and Turkey, summary of which is given on previous pages as well as in Petitioner's Brief filed in lower Court, copies submitted to the clerk, for this court's review.

CONCLUSION

Sale of last family home under above described circumstances, and following *Summary Judgment* entered by Trial Court, *without a trial and hearing on Summary Judgment,* and final Judgments entered by the court below inflicted painful injury to Petitioner and his minor children, one at large in Denmark, the other in the U.S.A. In violation of State Laws of Maryland, Treaties of the U.S.A, resulting inequitable relief.

For each and every one of the serious foregoing constitutional issues, this Honorable Court should grant a hearing in the lower court, preferably in federal courts due to the amount of controversies exceeding the jurisdictional amount, Treaties of U.S.A., Diversity of Citizenship, Civil Rights Act and Federal Statues under consideration, where matters of child custody should be taken up under the laws of the State of Maryland, as presented.

Dated: July 21, 1980.

Respectfully submitted,

ARTIN ARTARIAN
PETITIONER PRO SE
P.O. Box 602, OLNEY, MARYLAND
20832

Appendices

Appendix A

In the Court of Special Appeals
of Maryland
September Term 1979

No. 1006

Karen Marie Artar, appellee, filed a Bill of Complaint in the Circuit Court for Montgomery County for partition in lieu of sale of certain real property which she and her husband allegedly held as tenants in common. The complaint alleged that appellee and appellant, Artin Artar (a/k/a Artarian) were owners in fee simple as tenants in common of a certain piece of real property located in Olney Acres, Montgomery County. Title was originally acquired by the parties as tenants in the entireties. It was further alleged that the parties were duly divorced by the final decree of a Danish court. In accordance with the allegation that the property was improved by a single family residence and not capable of partition between the parties, the appellee sought the appointment of a trustee to sell the property in lieu of partition.

Appellee filed a motion for summary judgment to which appellant filed no written response. At the hearing on the motion appellant, appearing *pro se*, argued his opposition to the motion. Following the hearing the trial court ordered that summary judgment be entered in favor of appellee and that a trustee or trustees be appointed to make a sale of the premises in lieu of partition.

On appeal, appellant raises a number of issues which purportedly invalidate the Danish divorce decree which was filed with appellee's bill of complaint and motion for summary judgment, and upon which the trial court, it is argued, relied in erroneously entering summary judgment in appellee's favor. According to appellant, the Danish divorce should not have been recognized by the trial court because it was not final and the Danish court did not have jurisdiction to enter such a decree.

To a large extent the issues raised by appellant relative to the Danish decree are irrelevant. The real concern here is whether the parties were divorced, converting their interest in the property from a tenancy by the entireties to a tenancy in common which would be subject to a decree of partition under *Md. Real Prop. Code Ann.* § 14-107 (1974). *See DiTommasi v. DiTommasi,* 27 Md. App. 241, 243, 340A. 2d 341 (1975), and cases cited therein. The fact that the parties were divorced was established by the appellant's admission in his answer to the bill of complaint, during his *pro se* argument on the motion for summary judgment, and finally at oral argument on appeal. At the beginning of his argument the chancellor asked appellant whether he was married or divorced. He responded that he was twice divorced and that he had filed another divorce case in Massachusetts. The chancellor then asked if he was divorced now, to which appellant answered:

"MR. ARTAR: Yes, I have two decrees

THE COURT: That is what I understand. You therefore own this property as tenants in common."

Appellant did not quarrel with the chancellor's conclusion that the property was owned as tenants in common. Apparently the two decrees to which appellant alluded were the Danish decree obtained by the wife and a Turkish decree which he had obtained. He made no attack on the Turkish decree but proceeded to argue that the Danish decree was invalid. The chancellor seemed mystified by this court of argument and again questioned appellant:

"THE COURT: I asked you if you were divorced and you said you were.

MR. ARTAR: That is what they [appellee] claim. I am not. They said [the Danish decree] is [a] final decree. It is not, Your Honor, because -

THE COURT: You got a decree yourself?

MR. ARTAR: Sure, that is when I am in this court. That decree [the Turkish decree] says the custody of both children is to be given to me. ..."

Appellant, proceeding as his own counsel, bound himself by stating that he was divorced. We believe the same rules which govern admissions by counsel should also apply to parties proceeding *pro se.* Thus, no further evidence was necessary on the question. *See Posko v. Climatic Control Corp.,* 198 Md. 578, 584, 84 A.2d 906 . Additionally, appellant admitted in his answer to the petition that the parties "were formerly husband and wife" and alleged the validity of the Turkish decree. The fact of the parties' divorce was therefore not disputed and the trial court properly entered summary judgment, ordering that the property, since it was held as tenants in common, be sold in lieu of partiition pursuant to *Md. Real Prop. CodeAnn.,* § 14-107(a) (1974).

There are four other issues raised by appellant which can be dealt with summarily. The first issue is whether the trial court prejudiced appellant "by giving judicial advice to appellee's attorney". The court, responding to appellee's argument on the motion for summary judgment, stated that he would take the matter under advisement and that "You will hear from me in writing." The appellant obviously misunderstood the chancellor's remarks. The chancellor was not showing any favoritism to appellee, rather he was advising both parties that he would not rule on the motion immediately but would file a memorandum at some later date which would be available to both parties.

Appellant's second issue is whether the trial court erred in denying the appellant's motion for removal of this case to the federal court where another action, filed by appellant, was pending. The motion was properly denied because it was not timely filed under Md. R. 323. Removal is a matter which should be raised in a motion raising preliminary objection, and such a motion must be filed before any other pleading. The record reveals that appellant's answer to the bill of complaint was filed well in advance of the motion raising preliminary objection.

Appellant also claims that the lower court erred in granting summary judgment in appellee's favor despite the "unclean hands" of appellee. This argument was not raised by appellant in the lower court and we will not respond to it here. Md. R. 1085.

Finally appellant argues that the chancellor erred in refusing to determine custody of a minor child of the parties presently residing with appellee and not residing or domiciled in Maryland. We perceive no error here since even if this relief was properly sought under the pleadings, the court would not have jurisdiction. In *Seidlitz v. Seidlitz,* 23 Md. app. 327, 327 A.2d 779 (1974), we said in part:

> "The equity courts of Maryland have jurisdiction over the custody, guardianship, maintenance, and support of children, and a court may from time to time modify its decree or order concerning a child.
>
> ***
>
> Before it may exercise this authority, however, the Maryland court must have jurisdiction over the children."

Id. at 335. It is patent from an examination of the record that the Circuit Court for Montgomery County had not previously granted custody of the child involved here to appellee, nor was the child a resident of or domiciled in the county. Thus the court had no jurisdiction over the child and no authority to determine any change in its custody. *See Zamaludin v. Ishoof,* _____Md. App._____ 409 A. 2d 1141 (1980).

Lowe
Couch
Weant,
JJ.

JUDGEMENT AFFIRMED.

COSTS TO BE PAID BY APPELLANT.

Filed: March 26, 1980

Appendix B

September Term, 1980

Petition Docket No. 61

(No. 1006, September Term, 1979 Court of Special Appeals)

Artin Artarian

v.

Karen Marie Artar

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/Robert C. Murphy
Chief Judge

April 21, 1980

Appendix C

In the Circuit Court for
Montgomery County, Maryland
Sitting as a Court of Equity

KAREN MARIE ARTAR: R(47)
Plaintiff:
vs.:
ARTIN ARTAR: Equity No. 64911
Defendant:

ORDER

Plaintiff's Motion for Summary Judgment on her Bill of Complaint for Partition Between Tenants in Common having come on for hearing, having been read by the Court, and counsel having been heard, it is this 17th day of July, 1979,

ORDERED by the Court:

1. Summary Judgment is hereby entered in favor of Plaintiff, Karen Marie Artar;

2. And that a Trustee or Trustees be appoint to make a sale of said premises in lieu of partition thereof.

Stanley B. Frosh
Judge; Circuit Court for
Montgomery County,
Maryland
Sitting as a Court of Equity

Filed: July 18, 1979

Appendix D

E148

AFFIDAVIT

I, Thomas L. Beight, Esquire being of sound mind, competent to testify and over the age of 21 do hereby swear to the best of my personal knowledge and belief that Karen Artar did in fact *desert* her husband, Artin Artar on or about August 6, 1973 at which time the parties owned and occupied a house located at 18105 Cashell Road in Olney, Maryland, U.S.A. I further testify to the best of my personal knowledge and belief that Mr. Artin Artar accepted employment in Boston, Massachusetts with the firm of Stone and Webster Engineering Corporation and did in fact make plans to move his family to Boston. Prior to accepting this position in Boston, Mr. Artar had an excellent job with the Bechtel Corporation on Shady Grove Road in Gaithersburg, Maryland.

I further swear to the best of my personal knowledge and belief that Mrs. Karen Artar *purported to agree to this* change and even went so far as to participate in the purchase *of a new home in Framingham,* Massachusetts, while harboring the *secret desire* to leave the United States without Artin Artar's permission and *did in fact go to Denmark.* I further testify to the best of my personal knowledge and belief that Mrs. Artar executed a power of attorney authorizing Roger W. Titus as her lawful attorney to represent her in the sale of the 18105 Cashell Road, Olney, Maryland home; that I did thereafter assist Mr. Artar in obtaining Mrs. Artar's signature in order to sell the house in Framingham, Massachusetts.

Thomas L. Beight

STATE OF MARYLAND
COUNTY OF MONTGOMERY)ss:

I HEREBY CERTIFY that on this 22nd day of March, 1976 before the subscriber, a Notary Public of the State and County aforesaid, personally appeared Thomas L. Beight, and made oath in due form of law that he is competent to testify hereto, that he has personal knowledge of the matters and things contained herein and that the same are true and correct.

IN WITNESS WHEREOF, I hereunto set my hand and seal the day and year first above written.

/s/Jim V. Dabelein
NOTARY PUBLIC
My Commission Expires:
7/1/78